

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MUBAREZ AHMED,

Plaintiff,

Civil Action No.: 18-13849

Honorable George Caram Steeh

Magistrate Judge Elizabeth A. Stafford

v.

ERNEST WILSON,

Defendant.

**ORDER DENYING WITHOUT PREJUDICE JOINT MOTION
TO SHOW CAUSE BOBBIE RUFF FOR FAILURE TO
ACCEPT SERVICE AND COMPLY WITH SUBPOENA (ECF NO. 56)**

The parties jointly moved for an order requiring nonparty Bobbie Ruff to show cause why she should not be held in contempt for her failure to accept service for a subpoena for her to testify in a deposition. ECF No. 56.¹ But as discussed during a May 25, 2021 status conference, a court may hold a person in contempt for failing to obey a subpoena only after that person has been served with the subpoena. Fed. R. Civ. P. 45(g); *Anderson v. Furst*, No. 2:17-12676, 2019 WL 2329271, at *2 (E.D. Mich.

¹ The Honorable George Caram Steeh referred this matter to the undersigned for all pretrial matters under 28 U.S.C. § 636(b)(1)(A). ECF No. 20.

May 31, 2019). Since Ruff has not been served, Rule 45(g) does not authorize the Court to hold her in contempt.

The parties may move for alternate service of the subpoena with a showing that they are unable “to effectuate service after a diligent effort.” *OceanFirst Bank v. Hartford Fire Ins. Co.*, 794 F. Supp. 2d 752, 754 (E.D. Mich. 2011). The parties’ joint motion did not adequately address whether their past efforts to serve Ruff were diligent enough to justify an order allowing for alternate service. See *id.* (finding the plaintiff’s evidence “inadequate to show diligence”).

The Court thus **DENIES WITHOUT PREJUDICE** the parties’ joint motion to require Bobbie Ruff to show cause why she should not be held in contempt.²

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

Dated: May 26, 2021

² The motion also asks the Court to require that Ruff “produce responsive documents,” but the subpoena does not include a request for documents. ECF No. 56, PageID.969; ECF No. 56-1, PageID.974.

NOTICE TO PARTIES ABOUT OBJECTIONS

Within 14 days of being served with this order, any party may file objections with the assigned district judge. Fed. R. Civ. P. 72(a). The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636. **“When an objection is filed to a magistrate judge’s ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.”** E.D. Mich. LR 72.2.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on May 26, 2021.

s/Marlana Williams
MARLENA WILLIAMS
Case Manager